

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER d: GAS UTILITIES

PART 535  
BACKGROUND CHECKS AND MERCURY COMPLIANCE

Section	
535.10	Definitions
535.20	Application
535.30	Background Checks
535.40	Work Performed on Regulators and Manometers
535.50	Reporting Mercury Tests
535.60	Mercury Reports to the Commission
535.70	Air Sample Test in Excess of Allowed Levels
535.80	Certification of Equipment

AUTHORITY: Implementing and authorized by Sections 8-501.5 and 8-505.5 of the Public Utilities Act [220 ILCS 5/8-501.5, 8-505.5].

SOURCE:

Section 535.10 Definitions

“Act” means the Public Utilities Act [220 ILCS 5].

“Commission” means the Illinois Commerce Commission.

“Pertinent safety law” means any applicable local, State and federal safety law.

“Pertinent environmental law” means any applicable local, State and federal environmental law.

“Public utility” means the same as that term is defined in Section 3-105 of the Act [220 ILCS 5/3-105].

“Work” means any maintenance, replacement, or inspection of public utility equipment by a public utility or by a contractor for a public utility. “Work” shall not include meter readings and inspections of public utility equipment that only involve observations or taking readings.

“Violation” means any final order issued by any federal or State court or agency of competent jurisdiction, or written stipulation, admission, agreed settlement or consent order containing an admission of liability for the violation, entered into within the last

five (5) years prior to the hiring, promoting or transfer date as set forth in Section 535.30 *Background Checks*.

#### Section 535.20 Application

The purposes of this Part are to set forth the procedures for completing certificates that a public utility shall require from employees or contractors before any work is performed by these employees or contractors on a facility used for the distribution of natural gas, and the procedures for the manner in which the public utility, its agents or contractors conduct mercury vapor tests and use mercury vapor testing equipment.

#### Section 535.30 Background Checks

- a) Before hiring, promoting, or transferring an employee to perform work on facilities used for the distribution of natural gas to customers, a public utility shall require each employee or potential employee to complete a certificate listing violations of pertinent safety or environmental laws by the employee or potential employee. Exempt from this requirement are current employees of public utilities who were in positions with the public utilities that involved work on facilities used for the distribution of natural gas to customers of these public utilities on the effective date of this Part. Also exempt are employees who are being transferred or promoted from a position requiring a certificate to another position requiring a certificate.
- b) Before hiring an independent contractor to perform work involving facilities used for the distribution of natural gas to customers, a public utility shall require an owner or officer of the independent contractor to provide certificates listing violations of pertinent safety or environmental laws by the independent.
- c) A certificate of violations of pertinent safety and environmental laws completed by a potential public utility employee shall contain the following information:
  - 1) Name of potential employee;
  - 2) Potential employee's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
  - 3) Statement that the potential employee is providing truthful information;

- 4) Notice to the potential employee that willful omissions of information from this certificate are grounds for employment termination; and
  - 5) Potential employee's dated signature.
- d) A certificate of violations of pertinent safety and environmental laws completed by an independent contractor firm shall contain the following information:
- 1) Identification of the specific public utility contract being sought by the independent contractor firm;
  - 2) Name and address of the independent contractor firm;
  - 3) Name and position held in the independent contractor firm by the person completing the certificate;
  - 4) Independent contractor firm's declaration of violations of pertinent safety and environmental laws, including the date of the violation and the amount of any penalty or fine, if any, assessed because of the violation;
  - 5) Statement that the independent contractor firm is providing truthful information;
  - 6) Notice to the independent contractor firm that willful omissions of information from this certificate are grounds for contract termination; and
  - 7) Dated signature of independent contractor firm employee completing the certificate.
- e) A public utility shall retain completed certificates of violations of pertinent safety and environmental laws and shall make these records available for inspection by the Commission.
- 1) For a period of five years after creation of the certificate, a public utility shall keep a certificate completed by an independent contractor firm hired by the public utility;
  - 2) For a period of five years after employment termination, a public utility shall keep certificates completed by its own employees.
- f) Information provided in the certificates referred in subsections (c) and (d) shall be considered by these public utilities in making employment

decisions regarding those individuals or entities furnishing these certificates to these public utilities.

- g) Independent contractors, hired by the public utility, shall provide new certificates annually.

#### Section 535.40 Work Performed on Regulators and Manometers

- a) Prior to performing work at a customer location on a mercury-containing regulator or manometer used in providing natural gas service, a public utility shall test the air for mercury vapor in at least two locations: one location one foot above or away from the regulator or manometer and another location within 3 to 5 feet above the floor immediately adjacent to the regulator or manometer.
- b) After performing the work on a mercury-containing regulator or manometer used to provide natural gas service, a public utility shall test the air for mercury vapor at the same locations used for air sampling prior to performing the work on the regulator or manometer.
- c) When testing for mercury vapor, a public utility shall use mercury vapor testing equipment capable of detecting the presence of mercury at the limits required by the Illinois Department of Public Health, Illinois Environmental Protection Agency or other appropriate State or federal program or safety authority.
- d) A public utility shall use mercury vapor testing equipment in accordance with the guidelines set forth by the manufacturer of the equipment.
- e) A public utility shall not perform any mercury vapor tests under conditions that would counter the manufacturer's recommendations for use of the mercury vapor test equipment.
  - 1) A public utility shall postpone non-emergency work on mercury containing regulators or manometers until mercury vapor testing conditions are favorable for accurate readings from its mercury vapor test equipment per the mercury vapor testing equipment manufacturer's recommendations, except that:
    - A) If the work involves regulators or manometers located outdoors, the public utility may perform the work, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment, or

- B) If the work involves regulators or manometers located inside a customer location, the public utility may request permission from the Commission to proceed with the work.
- 2) A public utility may perform emergency work on mercury-containing regulators or manometers without conducting the required mercury vapor test if conditions are not suitable for accurate readings from its mercury vapor test equipment, but shall return to the work site and test for mercury vapor as soon as conditions are favorable for accurate readings from its mercury vapor test equipment.

#### Section 535.50 Reporting Mercury Tests

- a) A public utility performing a mercury vapor air sample test required by Section 535.40 shall provide the following information:
  - 1) Address where the mercury-containing regulator or manometer is or was located;
  - 2) Indication of whether a the regulator or manometer was located inside or outside of customer's location;
  - 3) Indication of whether a regulator or manometer is at the specified location;
  - 4) Indication of whether the regulator or manometer remained at the specified location or was removed;
  - 5) Name of the public utility providing natural gas service to the property;
  - 6) Name of person conducting the test;
  - 7) Date and time of the test;
  - 8) Level of mercury vapor found at each test location;
  - 9) General description of each air sample test location;
  - 10) Name and model number of the device used to conduct the test;
  - 11) Date of original work and explanation of testing delay if testing was postponed due to circumstances covered in Section 535.40(e)(2); and

- 12) Dated signature of person completing the mercury vapor test report.
- b) After performing mercury vapor tests required by Section 535.40 a public utility shall, if requested by the occupant or owner of the property, provide a copy of the mercury vapor test results to the occupant or owner of the property where the public utility performed the tests. If requested, the public utility shall mail a copy of the mercury vapor test results in a first class envelope addressed to the occupant or owner within ten working days of the date of the request.
- c) A public utility shall retain the information required in subsection 535.50(a) five years. A public utility shall make these records available for inspection by the Commission staff upon request.

#### Section 535.60 Mercury Reports to the Commission

- a) No later than April 1 of each year, a public utility offering natural gas service shall file an annual mercury compliance report with the Chief Clerk of the Commission. The report shall contain the following information for the previous calendar year:
  - 1) Number of locations that required a mercury air sample test; and
  - 2) Identification of locations that contained mercury air sample tests in excess of the allowed levels and the concentration of mercury vapor detected by the public utility at each location as set forth in Section 535.40(c).
- b) If a public utility reports no activity regarding the removal of mercury regulators or manometers used in providing natural gas service for a period of three consecutive years and certifies by verified statement with the Chief Clerk of the Commission that there are no known locations with mercury containing regulators or manometers used in providing natural gas service, then the utility is exempted from the reporting requirement.
- c) A public utility's exemption from the reporting requirements in Section 535.60 ends in the event that:
  - 1) The public utility discovers a mercury containing regulator or manometer used in providing natural gas service within its system; or
  - 2) The public utility merges with another Illinois natural gas utility or acquires Illinois service territory from another public utility that has not met the requirements of 535.60 (b).

#### Section 535.70 Air Sample Test in Excess of Allowed Levels

- a) For each confirmed mercury vapor test result in excess of the limits set forth in Section 535.40(c), a public utility shall immediately notify all State and federal authorities with jurisdiction of its findings and implement the appropriate mercury contamination clean-up procedure with those authorities, to the extent such notification and clean-up is required under pertinent environmental laws or pertinent safety laws and to the extent that the utility has not previously developed protocols for notification and cleanup with the applicable authorities.
- b) If a public utility is required, as discussed under subsection (a), to conduct a clean-up, the public utility shall maintain a file of all correspondence regarding each location where it obtained a confirmed mercury vapor test result in excess of the limits set forth in Section 535.40(c) for a period of five years after it receives confirmation from the appropriate State or federal authorities that its mercury clean up activities are completed and no further work in this regard is needed.
- c) For purposes of this Section, a confirmed reading is one that has been obtained in the absence of any interference, or one that has been obtained by an alternative mercury vapor analyzer in those cases where an interference exists.

#### Section 535.80 Certification of Equipment

A public utility or its agents shall follow the manufacturer's testing, maintenance and certification recommendations for all mercury vapor testing equipment used to test for the presence of mercury vapor and shall keep the records of such testing, maintenance and certifications for five years after its last mercury vapor test required by Section 535.40.